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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,174

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2545-0511

4037

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07/03/2008

EXAMINER

DEUBLE, MARK A

ART UNIT

PAPER NUMBER

3651

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/590,174	Applicant(s) BOLDRINI ET AL.	
	Examiner Mark A. Deuble	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-22 is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 5-19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT document number WO 01/85581 A1, as in the office action of December 21, 2007.

The PCT document shows a unit for feeding products P in an ordered succession. The conveying unit includes a conveyor unit 10 with pockets 24/25 that receives the products from a dispensing device (not shown) and transports them along a predetermined path to a transfer station 15 that in turn transports the products to an outfeed conveyor. The conveyor unit has a first belt 21a and a second belt 21b placed one beside the other and set in motion by independent drive means (see p. 11, ln. 13-15). The pockets are arranged in first and second groups alternated one with another along the predetermined path, each comprising a given number of pockets ordered at constant pitch and associated respectively with the first belt and second belt. While the mounting of the pockets on their respective conveyors is not shown in detail, it is apparent that they each include supporting elements that are secured to the respective belt such that it is cantilevered to overlap the other belt (See Fig. 1). The transfer station includes a transfer unit operating between the conveyor unit and the outfeed conveyor in the form of transfer means 64 by which products are ejected from the pockets and transferred at predetermined intervals to the outfeed conveyor. The movement of the first and second belts

and the transfer station must inherently be governed by a control unit (not shown) in such a way as to establish a predetermined phase relationship with the operating frequency of the ejection and transfer means. If some control did not establish this phase relationship, the apparatus would not achieve its stated operation. Thus the PCT document shows all the structure required by claims 1 and 4.

In response to this rejection, the applicant makes two arguments. First, the applicant argues that the PCT document does not show a conveyor unit comprising a first and second belts as required by the independent claim. Second, the applicant argues that the conveyor unit described in the PCT document does not direct the products with constant pitch and thus does not meet all the limitations of the claims. The examiner respectfully disagrees with both of these arguments.

In regard to the first argument, the examiner agrees that the PCT document shows a pair of chains, but does not agree that because chains are different from belts, that these chains may not be viewed as forming "belts" when this term is given a broad reasonable interpretation that one in the art of conveyors would commonly understand. One definition for the term belt given by Merriam Webster's Collegiate Dictionary, 10th Ed is: "a continuous band of tough flexible material for transmitting motion and power or conveying materials." An endless looped chain of the type shows in the PCT document clearly fits within this definition as it has a plurality of tough links flexing relative to each other to transmit motion to the pockets. Furthermore, it should be noted that in the art of conveyor belts, it is common to use the term "belt" to refer to a belt made up of a plurality of a plurality of rigid links that pivot relative to each other and that this type of belt is used interchangeably with belts of a sheet like flexible material for conveying

products. Evidence of this may be found at least in the definitions of class 198/844.1 and 198/850 which define an endless conveyor under 198/804 thusly:

844.1 Carrier belt structure:

This subclass is indented under subclass 804. Subject matter wherein significance is attributed to the particular construction of the conveyor belt.

850 Formed of or including pivotally interconnected rigid links

This subclass is indented under subclass 844.1. Apparatus in which the belt is formed of or includes rigid link members pivotally connected one to another in tandem relation lengthwise of the belt.

(1) Note. Included herein inter alia is a carrier belt formed of links joined by hooks, ball and socket-type connections, or lacing rings or coils extending through apertures in said links.

In regard to the second argument, it should be noted that the language of the claims does not require that the products all along the conveyor be directed with a constant pitch. The language of lines 9-11 of the claim states that "... , and the pockets are arranged in first and second groups alternated one with another along the predetermined path, each comprising a given number of pockets ordered at constant pitch..." This language only required that the pockets within each group are ordered at constant pitch because the word "each" after the comma refers to the groups mentioned in the previous line. Thus, while the spacing from a product contained within the end pocket of a group of three pockets in one bucket 24 is different than the pitch separating the end product of that group from the end product of the next adjacent group of three in a different bucket, the PCT document still shows all the limitations required by the claims because the products and the pockets within each group are ordered at constant pitch.

Allowable Subject Matter

3. Claims 2-3 and 5-19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Claims 20-22 are allowed.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Deuble whose telephone number is (571) 272-6912. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark A. Deuble/
Primary Examiner
Art Unit 3651

md